

**Assembly Bill No. 2651**

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Passed the Assembly    August 19, 2002

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*Chief Clerk of the Assembly*

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Passed the Senate    August 14, 2002

\_\_\_\_\_  
*Secretary of the Senate*

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This bill was received by the Governor this \_\_\_\_\_ day of  
\_\_\_\_\_, 2002, at \_\_\_\_\_ o'clock \_\_M.

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*Private Secretary of the Governor*

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## CHAPTER \_\_\_\_\_

An act to amend Sections 903.8, 16001.9, 16164, and 16167 of, and to add Section 16013 to, the Welfare and Institutions Code, relating to social services.

## LEGISLATIVE COUNSEL'S DIGEST

AB 2651, Chu. Foster youth.

Existing law provides for the placement of certain youth in foster care, and provides for child welfare services for, among other purposes, the protection and promotion of the welfare of all youth, including those in foster care.

Existing law also establishes the Office of the State Foster Care Ombudsperson within the State Department of Social Services for the purpose of providing youth placed in foster care with a means of resolving issues related to their care, placement, or services.

Existing law establishes a statewide toll-free telephone number for foster care youth to contact the Office of the State Foster Care Ombudsperson.

This bill would declare legislative intent and state policy, as specified, regarding the rights of youth who are in foster care.

This bill would also express the intent of the Legislature that the State Foster Care Ombudsperson address complaints brought by all foster youth, including gay, lesbian, bisexual, or transgender foster youth, regarding their care, placement, and services, and that the toll-free hotline shall be available to all youth in foster care, including those who are being physically, sexually, or emotionally abused. This bill would require the State Foster Care Ombudsperson to refer certain allegations to specified entities.

Existing law requires the department to develop and implement an enhanced statewide basic foster parent training program, and permits the training program to include various topics.

The bill would permit the foster parent training program to include education on teenage sexual health and other methods of protection against sexually transmitted diseases and AIDS. It would also permit the training program to include topics related to gay and lesbian foster youth.

Existing law requires the department to evaluate current foster parent recruitment strategies and facilitate the expansion of



recruitment activities, especially targeting minority families for the promotion of the placement of minority youth with trained and culturally competent families of the same ethnicity and cultural background.

This bill would also require that the department facilitate the expansion of recruitment activities targeting gay, lesbian, bisexual, or transgender foster parents for the promotion of the placement of gay, lesbian, bisexual, or transgender foster youth with trained and culturally competent families of the same cultural background.

This bill would provide that this program shall be implemented only to the extent that funds for this purpose are appropriated by the Legislature in the annual Budget Act or other statute.

This bill would incorporate additional changes in Section 16164 of the Welfare and Institutions Code, proposed by AB 2294, to be operative only if AB 2294 and this bill are both enacted and become effective on or before January 1, 2003, and this bill is enacted last.

*The people of the State of California do enact as follows:*

SECTION 1. Section 903.8 of the Welfare and Institutions Code is amended to read:

903.8. (a) Beginning January 1, 1994, the State Department of Social Services shall develop and implement an enhanced statewide basic foster parent training program. .

(b) The department, in cooperation with foster parents and representatives from county placement agencies and other foster care providers, shall do all of the following:

(1) Develop and implement curricula for teenage pregnancy prevention and other special needs topics to supplement the core curriculum. The teenage pregnancy prevention topics shall be based upon public health fact-based materials and programs. Curricula for teenage pregnancy prevention shall emphasize that abstinence from sexual intercourse is the only protection that is 100 percent effective against unwanted teenage pregnancy, sexually transmitted diseases, and acquired immune deficiency syndrome (AIDS) when transmitted sexually, and that all other methods of contraception carry a risk of failure in preventing unwanted teenage pregnancy. Special needs topics may include



education on teenage sexual health and other methods of protection against sexually transmitted diseases and AIDS and the risks of failure in preventing contraction of the disease. The curricula shall:

(A) Include statistics based on the latest medical information citing the failure and success rates of condoms and other contraceptives in preventing pregnancy.

(B) Stress that sexually transmitted diseases are serious possible hazards of sexual intercourse, and shall include statistics based on the latest medical information citing the failure and success rates of condoms in preventing AIDS and other sexually transmitted diseases.

(C) Include a discussion of the possible emotional and psychological consequences of preadolescent and adolescent sexual intercourse outside of marriage and the consequences of unwanted adolescent pregnancy.

(D) The training of anyone in the role of a foster parent may also include the following topics:

(i) Sensitivity to sexual orientation, gender identity, and the challenges faced by gay, lesbian, bisexual, or transgender youth, or youth with gender issues.

(ii) Sensitivity to the trauma faced by youth who have been sexually or physically abused.

(2) Evaluate the current foster parent training funding formula and explore funding alternatives to ensure that a permanent and adequate funding source is available.

(3) Evaluate current recruitment strategies and facilitate the expansion of recruitment activities, especially targeting both of the following:

(A) Minority families for the promotion of the placement of minority youth with trained and culturally competent families of the same ethnicity and cultural background.

(B) Gay, lesbian, bisexual, or transgender foster parents for the promotion of the placement of gay, lesbian, bisexual, or transgender foster youth with trained and culturally competent families of the same cultural background.

(4) In its foster parent recruitment and training effort, place special emphasis on the recruitment of prospective foster parents willing to accept sibling placements and the training of foster parents to ensure they are able and ready to care for a sibling group.



(c) It is not the intent of the Legislature and nothing in this section shall be construed as requiring foster parents to participate in this training program in whole or in part.

(d) This section shall be implemented only to the extent that funds for this purpose are appropriated by the Legislature in the annual Budget Act or other statute.

SEC. 2. Section 16001.9 of the Welfare and Institutions Code is amended to read:

16001.9. (a) It is the policy of the state that all children in foster care shall have the following rights:

(1) To live in a safe, healthy, and comfortable home where he or she is treated with respect.

(2) To be free from physical, sexual, emotional, or other abuse, or corporal punishment.

(3) To receive adequate and healthy food, adequate clothing, and, for youth in group homes, an allowance.

(4) To receive medical, dental, vision, and mental health services.

(5) To be free of the administration of medication or chemical substances, unless authorized by a physician.

(6) To contact family members, unless prohibited by court order, and social workers, attorneys, foster youth advocates and supporters, Court Appointed Special Advocates (CASA), and probation officers.

(7) To visit and contact brothers and sisters, unless prohibited by court order.

(8) To contact the Community Care Licensing Division of the State Department of Social Services or the Office of the State Foster Care Ombudsperson regarding violations of rights, to speak to representatives of these offices confidentially, and to be free from threats or punishment for making complaints.

(9) To make and receive confidential telephone calls and send and receive unopened mail, unless prohibited by court order.

(10) To attend religious services and activities of his or her choice.

(11) To maintain an emancipation bank account and manage personal income, consistent with the child's age and developmental level, unless prohibited by the case plan.

(12) To not be locked in any room, building, or facility premises, unless placed in a community treatment facility.



(13) To attend school and participate in extracurricular, cultural, and personal enrichment activities, consistent with the child's age and developmental level.

(14) To work and develop job skills at an age-appropriate level that is consistent with state law.

(15) To have social contacts with people outside of the foster care system, such as teachers, church members, mentors, and friends.

(16) To attend Independent Living Program classes and activities if he or she meets age requirements.

(17) To attend court hearings and speak to the judge.

(18) To have storage space for private use.

(19) To review his or her own case plan if he or she is over 12 years of age and to receive information about his or her out-of-home placement and case plan, including being told of changes to the plan.

(20) To be free from unreasonable searches of personal belongings.

(21) To confidentiality of all juvenile court records consistent with existing law.

(22) To be free from discrimination and harassment based on actual or perceived race, color, religion, ancestry, ethnicity, national origin, physical or mental disability, medical condition, sex, including gender identity, or sexual orientation.

(b) Nothing in this section shall be interpreted to require a foster care provider to take any action that would impair the health and safety of children in out-of-home placement.

SEC. 3. Section 16013 is added to the Welfare and Institutions Code, to read:

16013. The Legislature finds and declares that, in an effort to enhance care and improve the well-being of youth in foster care, providers should be ensured the following protections:

(a) Race, color, national origin, political affiliation, religion, marital status, gender, age, disability, sexual orientation, or gender identity as a basis for discrimination is prohibited in the delivery of benefits and services.

(b) Discrimination against any person, including discrimination based on the sexual orientation or gender identity of foster parents and other foster household members, in licensing, approval, and placement decisions, is prohibited.



(c) Discrimination based on the HIV or AIDS status of foster parents who are able to perform foster care responsibilities and of other foster household members is prohibited.

SEC. 4. Section 16164 of the Welfare and Institutions Code is amended to read:

16164. (a) The Office of the State Foster Care Ombudsperson shall do all of the following:

(1) Disseminate information on the rights of children and youth in foster care and the services provided by the office. The rights of children and youths in foster care are listed in Section 16001.9. The information shall include notification that conversations with the office may not be confidential.

(2) Investigate and attempt to resolve complaints made by or on behalf of children placed in foster care, related to their care, placement, or services. It is the intent of the Legislature that the Office of the State Foster Care Ombudsperson shall address complaints brought by all foster youth, including gay, lesbian, bisexual, or transgender foster youth, regarding their care, placement, and services. The ombudsperson shall refer allegations of violations of licensing regulations to the Community Care Licensing Division, and shall refer allegations of civil rights violations to the Office of Civil Rights.

(3) Decide, in its discretion, whether to investigate a complaint, or refer complaints to another agency for investigation.

(4) Upon rendering a decision to investigate a complaint from a complainant, notify the complainant of the intention to investigate. If the office declines to investigate a complaint or continue an investigation, the office shall notify the complainant of the reason for the action of the office.

(5) Update the complainant on the progress of the investigation and notify the complainant of the final outcome.

(6) Document the number, source, origin, location, and nature of complaints.

(7) Compile and make available to the Legislature all data collected over the course of the year, including, but not limited to, the number of contacts to the toll-free telephone number, the number of complaints made, the number of investigations performed by the office, the number of referrals made, and the number of unresolved complaints.

(8) Have access to any record of a state or local agency that is necessary to carry out his or her responsibilities, and may meet or communicate with any foster child in his or her placement or elsewhere.

(b) The office may establish, in consultation with a committee of interested individuals, regional or local foster care ombudsperson offices for the purposes of expediting investigations and resolving complaints, subject to appropriations in the annual Budget Act.

(c) (1) The office, in consultation with the California Welfare Directors Association, Chief Probation Officers of California, foster youth advocate and support groups, groups representing children, families, foster parents, children's facilities, and other interested parties, shall develop, no later than July 1, 2002, standardized information explaining the rights specified in Section 16001.9. The information shall be developed in an age-appropriate manner, and shall reflect any relevant licensing requirements with respect to foster care providers' responsibilities to adequately supervise children in care.

(2) The office, counties, foster care providers, and others may use the information developed in paragraph (1) in carrying out their responsibilities to inform foster children and youth of their rights pursuant to Section 1530.91 of the Health and Safety Code, Sections 27 and 16501.1, and this section.

SEC. 5. Section 16164 of the Welfare and Institutions Code is amended to read:

16164. (a) The Office of the State Foster Care Ombudsperson shall do all of the following:

(1) Disseminate information on the rights of children and youth in foster care and the services provided by the office. The rights of children and youths in foster care are listed in Section 16001.9. The information shall include notification that conversations with the office may not be confidential.

(2) Investigate and attempt to resolve complaints made by or on behalf of children placed in foster care, related to their care, placement, or services. It is the intent of the Legislature that the Office of the State Foster Care Ombudsperson shall address complaints brought by all foster youth, including gay, lesbian, bisexual, or transgender foster youth, regarding their care, placement, and services. The ombudsperson shall refer allegations





of violations of licensing regulations to the Community Care Licensing Division, and shall refer allegations of civil rights violations to the Office of Civil Rights.

(3) Decide, in its discretion, whether to investigate a complaint, or refer complaints to another agency for investigation.

(4) Upon rendering a decision to investigate a complaint from a complainant, notify the complainant of the intention to investigate. If the office declines to investigate a complaint or continue an investigation, the office shall notify the complainant of the reason for the action of the office.

(5) Update the complainant on the progress of the investigation and notify the complainant of the final outcome.

(6) Document the number, source, origin, location, and nature of complaints.

(7) Compile and make available to the Legislature all data collected over the course of the year including, but not limited to, the number of contacts to the toll-free telephone number, the number of complaints made, the number of investigations performed by the office, the number of referrals made, and the number of unresolved complaints.

(8) Have access to any record of a state or local agency that is necessary to carry out his or her responsibilities, and may meet or communicate with any foster child in his or her placement or elsewhere.

(9) Provide a report directly to the appropriate fiscal and policy committees of the Legislature at least every two years regarding reports and complaints received by the office, and issues that arose in the course of investigating complaints. The report shall include, but not be limited to, a summary of trends and issues regarding complaints as well as recommendations for addressing issues identified through complaints or that have become apparent in the course of investigations conducted by the office.

(b) The office may establish, in consultation with a committee of interested individuals, regional or local foster care ombudsperson offices for the purposes of expediting investigations and resolving complaints, subject to appropriations in the annual Budget Act.

(c) (1) The office, in consultation with the California Welfare Directors Association, Chief Probation Officers of California, foster youth advocate and support groups, groups representing



children, families, foster parents, children's facilities, and other interested parties, shall develop, no later than July 1, 2002, standardized information explaining the rights specified in Section 16001.9. The information shall be developed in an age-appropriate manner, and shall reflect any relevant licensing requirements with respect to foster care providers' responsibilities to adequately supervise children in care.

(2) The office, counties, foster care providers, and others may use the information developed in paragraph (1) in carrying out their responsibilities to inform foster children and youth of their rights pursuant to Section 1530.91 of the Health and Safety Code, Sections 27 and 16501.1, and this section.

SEC. 6. Section 16167 of the Welfare and Institutions Code is amended to read:

16167. (a) A toll-free telephone number shall be established for the office.

(b) Social workers shall provide foster children with the toll-free telephone number for the office and verbal or written information regarding the existence and purpose of the office.

(c) It is the intent of the Legislature that the toll-free telephone number be made available to all youth in foster care to use for any reason, including, but not limited to, that a youth in foster care is being physically, sexually, or emotionally abused, regardless of whether the abuse is specifically related to his or her sexual orientation or gender identity.

SEC. 7. Section 5 of this bill incorporates amendments to Section 16164 of the Welfare and Institutions Code proposed by both this bill and AB 2294. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2003, (2) each bill amends Section 16164 of the Welfare and Institutions Code, and (3) this bill is enacted after AB 2294, in which case Section 4 of this bill shall not become operative.



Approved \_\_\_\_\_, 2002

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*Governor*

